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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,000	09/16/2003	James J. Bono JR.	6652-43U1	1746
570	7590	06/29/2005	EXAMINER	
AKIN GUMP STRAUSS HAUER & FELD L.L.P. ONE COMMERCE SQUARE 2005 MARKET STREET, SUITE 2200 PHILADELPHIA, PA 19103			PATEL, VISHAL A	
			ART UNIT	PAPER NUMBER
			3679	

DATE MAILED: 06/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/663,000	BONO, JAMES J.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Vishal Patel	3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 28 March 2005.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-16 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-16 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5, 9 and 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moyer (US. 5,205,075) in view of Reinvaldt (US. 767,763).

Moyer discloses a termination of a flexible hollow gasket (90) mounted to close a gap between an oven door (150) and an oven face (face of 140) surrounding an oven mouth (mouth of 140) and facing the oven door. The gasket being attached to the oven door (the gasket is attached to an oven door by fasteners 10 being placed in holes 160 in the oven door), including a tubular member having a first and second opposing ends (ends of 90), a resiliently flexible wall (wall 100) formed at least substantially by intertwined fibrous yarns extending between the ends and a plurality of fasteners (10) extending through the flexible wall and outwardly from the flexible wall and configured to be received in spaced openings in the one of the oven door and oven face. Two of the fasteners are located immediately adjacent the first and second ends (joint formed by the ends of the gasket 90 and retained by the clips 10 on an oven door 150) to connect to the oven door or the oven face by the fasteners.

The fasteners comprise plurality of separate individual spring clips (clips 10). The spring clips are individual wire members separated and distinct from each other, each of the spring clip being individually captured within and protruding from the flexible wall (all clips 10 are

protruding from the flexible wall). The fasteners (10) are formed from a single continuous spring wire member (wire member of 10), the fasteners being engagement portions of the wire member protruding from the flexible wall (portion of 10 that protrudes from the flexible wall). The gasket having a tubular resilient core and a flexible outer jacket formed by a plurality of fibrous yarns intertwined seamlessly around the resilient core (core 110 and jacket 100). The flexible outer jacket is made of braided glass fiber yarns. The gasket is formed as a closed loop (close loop form of the gasket 90).

Moyer discloses the invention substantially as claimed above but fails to disclose that the first end of the flexible wall *being at least partially collapsed to form* (product by process limitations is given no patentable weight to only the end result of the process, regardless of the actual process in prior art) a male end, the second end of the wall *being left uncollapsed to form* (See above, method limitation is given no patentable weight) a female end, the male end is adjustably received within the female end to form a joint engaging the first and second ends together to form the closed loop and the joint being held together by the fasteners immediately adjoining each of the first and second ends of the wall received in the two of the spaced openings in the oven door or an oven face. Reinvaldt discloses a gasket having a first male end (F), a female end (G) and two fasteners adjacent the ends (Two of C adjacent to G and F as seen in figure 4) that hold a joint formed by the male and female ends. The first male end is held in collapsed condition before the joint is formed. It would have been obvious to one having ordinary skill in the art at the time the invention was made to configure the first and second ends of Moyer to be a male end and a female end, respectively as taught by Reinvaldt, to provide a joint without lump (Page 1, column 2, lines 75-85 of Reinvaldt) or an alternative way of joining

a member to form a loop. Clearly, the references as a whole invite the combination by offering advantages of such a modification to the primary reference, since Reinvaldt identifies and solves the problem of the prior art.

3. Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moyer and Reinvaldt as applied to claims above, and further in view of Weil (US. 4,986,033).

Moyer and Reinvaldt disclose the invention substantially as claimed above but fail to disclose that the core is made of stain less steel wires knitted together. Weil discloses a gasket on an oven door that is formed of a stainless steel wire core that is knitted and an outer jacket made of glass fiber yarns (10). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the core of Moyer and Reinvaldt to be formed of stainless steel wire that is knitted as taught by Weil, to provide a core that has strength, flexibility, is light weight and is temperature resistant (column 6, lines 30-33 of Weil).

4. Claims 1-5 and 10-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moyer as applied above, and further in view of Close et al (US. 4,156,533).

Moyer disclose the invention substantially as claimed above but fail to disclose that the first end of the flexible wall *being at least partially collapsed to form* (product by process limitations is given no patentable weight to only the end result of the process, regardless of the actual process in prior art) a male end, the second end of the wall *being left uncollapsed to form* (See above, method limitation is given no patentable weight) a female end, the male end is adjustably received within the female end to form a joint engaging the first and second ends together to form the closed loop, an end of the core protrudes from an end of the jacket at the first end of the flexible wall and an end of the outer jacket extends beyond an end of the core at

the second end of the flexible wall and in turned in upon itself. Close a gasket having a core (40), an outer jacket (42) a male end (end of the core 40 in figure 6), a female end (end of the outer jacket 42), the male end inserted into the female end to form a joint, an end (end on the left side of figure 6) of the core (40) extends beyond an end (end on the left side of figure 6) of the outer jacket (42) and an end (end on the right side of figure 6) of the outer jacket (42) extends beyond an end (end on the right side of figure 6) of the core (40). It would have been obvious to one having ordinary skill in the art at the time the invention was made to configure the first and second ends of Moyer to be a male end formed by the core and a female end formed by the outer jacket, respectively as taught by Close, to provide a gasket that is continuous (column 3, lines 56-63 of Close) or an alternative way of joining a member to form a loop.

*Response to Arguments*

5. Applicant's arguments filed 3/28/05 have been fully considered but they are not persuasive.

Applicants' arguments that Moyer reference is a continuous loop is not persuasive because a braided article will have two ends that are separate and then formed into a loop by connecting the two ends. Furthermore Moyer is used only to teach that an oven gasket having fasteners, core and an outer jacket.

Applicants' argument against that Reinvaldt teaches tapered ends is correct but the tapered ends are formed by shrinking or swaging the end F to a smaller diameter and inserted into a larger diameter end G. Furthermore Reinvaldt teaches that a first end of a gasket is collapsed to form a smaller diameter so as to be inserted into a second end that has a larger diameter than the first end.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Applicants argument that neither Moyer or Reinvaldt teach the joint being held together by the fasteners immediately adjoining each of the first and second ends of the wall received in two of the spaced openings is not persuasive because this is the case since a first and second end of Moyer would exist between two adjacent fasteners.

Applicants' argument that neither Moyer or Close teach the joint being held together by the fasteners immediately adjoining each of the first and second ends of the wall received in two of the spaced openings is not persuasive because this is the case since a first and second end of Moyer would exist between two adjacent fasteners.

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vishal Patel whose telephone number is 571-272-7060. The examiner can normally be reached on 6:30am to 8:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on 571-272-7087. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

VP  
6/24/05



HEATHER SHACKELFORD  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600